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Council

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Consultations with the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic

Report of the Secretary-General

1. During the twentieth session, the Council of the International Seabed Authority considered a joint proposal by Germany and the United Kingdom of Great Britain and Northern Ireland on the current status of the collective arrangement between competent international organizations on cooperation and coordination regarding selected areas beyond national jurisdiction in the North-East Atlantic (ISBA/20/C/15). Members of the Council were of different views as regards the secretariat of the Authority joining the collective arrangement and did not make a decision on the matter. At the same time, the Council requested the secretariat of the Authority to hold consultations with the secretariat of the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic, with a view to reporting to the Council on the matter at the present session (ISBA/20/C/32, para. 27).

2. In response to that request, the present report has been prepared to reflect on those exchanges at the secretariat level since the previous session of the Authority.

3. The North-East Atlantic Fisheries Commission (NEAFC)[1] and the OSPAR Commission invited the secretariat of the Authority to share inputs from the point of view of the Authority at the first meeting under the collective arrangement, which was held in London on 27 and 28 April 2015. The secretariat of the Authority was able to participate by teleconference in part of the meeting on 27 April 2015. The mandate of the Authority was recalled, including its exclusive competence to adopt environmental management measures such as regional environmental management

[1] The OSPAR Commission and NEAFC, a regional fishery management organization established by the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries of 1980, signed a memorandum of understanding in August and September 2008. Denmark (in respect of the Faroe Islands and Greenland), Iceland, Norway, the Russian Federation and the European Union are members of NEAFC. They are also members of the Authority.

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plans for areas where the Authority had issued exploration contracts in application of the ecosystem and precautionary approaches. Participants in the meeting were also informed that the Authority had issued two contracts for exploration for polymetallic sulphides on the Mid-Atlantic Ridge, south of the Azores, and that the Council of the Authority, as well as the General Assembly of the United Nations, had identified the development of a regional environmental management plan in the Mid-Atlantic Ridge as a priority activity for the Authority. In that respect, preliminary discussions regarding the possible development of an environmental management plan for the Mid-Atlantic Ridge were also held in official meetings attended by both secretariats.

4. Participants in the first meeting were also informed that NEAFC and the OSPAR Commission had joined the collective arrangement in 2014. Joining the collective arrangement was also under consideration within the International Maritime Organization. During the first meeting under the collective arrangement, it was also noted that it would be appropriate to approach the International Commission for the Conservation of Atlantic Tunas to discuss the relevance of the collective arrangement.

5. During the first meeting, it was also recalled that the collective arrangement, which is a non-binding instrument, was intended to serve as a platform to facilitate dialogue and the exchange of information. The arrangement provides a framework for cooperation between competent sectoral organizations regarding selected areas beyond national jurisdiction in the North-East Atlantic that are subject to specific environmental management measures. Participants in the meeting presented the measures they had taken. The full report of the first meeting under the collective arrangement is reproduced in the annex to the present report.

6. The Council is invited to take note of the consultations over the reporting period between the secretariats of the Authority and the OSPAR Commission and to provide such direction as may be deemed appropriate.

Annex

Aide-mémoire of the first meeting under the collective arrangement

Agenda item 1 and overview of initial discussions

1. The first meeting under the collective arrangement was held on 27 and 28 April 2015, in London, and hosted by the secretariats of the North-East Atlantic Fisheries Commission (NEAFC) and the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic.

2. The meeting was attended by the President of NEAFC, the Chair of OSPAR, the Chair of the OSPAR Biodiversity Committee, a representative of Norway to NEAFC and the secretariats of the two organizations. The secretariat of the International Seabed Authority joined the meeting remotely to contribute to the discussions under agenda item 2. Representatives of the secretariat of the Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region and of the Canary Current Large Marine Ecosystem Project participated in the meeting as observers. This was as part of an ongoing initiative by Norway to facilitate the sharing of experiences between the North-East Atlantic and South-East Atlantic on improving governance of the oceans.

3. Presentations were made on the aims and objectives of NEAFC and OSPAR and on the background to the collective arrangement.

4. It was clarified that NEAFC had agreed specific closed areas both within and outside of existing bottom fishing areas, In addition, outside of existing bottom fishing areas, there were requirements in place for assessment prior to exploratory fishing and a formal decision by the NEAFC Commission was required for exploratory fisheries in those areas to proceed. In effect, those areas are therefore not open, unless NEAFC decides otherwise.

5. The participants considered that it would be useful to have a joint discussion on how various terms and principles were expressed in their two organizations, so as to ensure that the language used was intelligible to each other, for example, the detailed understanding of the ecosystem approach.

6. With regard to "sunset clauses", NEAFC explained there were explicit sunset clauses for its closed areas to ensure periodic reviews on the basis of the latest evidence. Similarly, OSPAR could decide to change any area that it had designated as a marine protected area if it felt that the relevant circumstances had changed. Any measure taken within such organizations should be considered according to the best available evidence and it would be appropriate to react on the basis of such evidence. Consequently, no measure could be considered permanent.

7. Participants noted the usefulness of mixing sectoral perspectives with more integrative considerations, looking both at the breadth of human activities and their interactions within the ecosystem, including cumulative effects.

8. They also noted that developing a functioning dialogue between the two organizations and other competent international organizations with international legal competence for managing human activities in areas beyond national

jurisdiction would be useful in demonstrating the value of a regional approach, where such competent organizations existed, highlighting where there were shared objectives for the sustainable use of the oceans.

9. Participants shared the view that the contracting parties should be encouraged to support the collective arrangement in discussions at the International Seabed Authority and the International Maritime Organization (IMO).

Agenda item 2: Collective arrangement

10. The following points were noted in consideration of the type of information appropriate for the inclusion in annexes 1 and 2 to the collective arrangement and the time frame for submitting that information.

(a) Submission of information for annex 1 on "selected areas"

11. Participants agreed that both contextual information and the detail of the selected areas would be useful to include, such as the objectives for the areas, the species protected therein, and so on. Links to the source of the information would also be useful (e.g., to the agreed text of any measures provided as background documentation).

12. Initial papers were presented by both NEAFC and OSPAR as possible bases for the type of information to be provided.

(b) Submission of information for annex 2 on the listing of memorandums of understanding and bilateral agreements

13. Participants agreed that there should be three parts to annex 2 and that this would include the title and the dates agreed for memorandums of understanding or bilateral agreements (see annex 1):

(a) Between OSPAR and NEAFC (with the intention that this would be expanded to incorporate bilateral arrangements between any other organizations that may adopt the collective arrangement in the future);

(b) Between NEAFC and other regional or global organizations of relevance to the subjects covered by the discussions on the collective arrangement;

(c) Between OSPAR and other regional or global organizations of relevance to the subjects covered by the discussions on the collective arrangement.

(c) Finalization and submission of the annexes

14. Both organizations would aim to finish their internal processes to endorse the texts for the annexes by 3 July 2015. Such "approval" by OSPAR or NEAFC would only be of their own annex texts and not of each other's texts.

15. The source of information used to populate the annexes should be made clear so that readers might find the original sources easily.

(d) Expansion of the collective to include other competent organizations and reflections from observing competent organizations

16. It was the intention that the collective arrangement should be expanded to include other competent international organizations. The collective arrangement had

been tabled for consideration by France and Norway to the IMO Marine Environment Protection Committee in late 2014. It was not discussed owing to the lack of time but was forwarded for consideration at the meeting in May 2015. The Authority had considered the collective arrangement, first in 2012 and again in 2014 (tabled by Germany and the United Kingdom of Great Britain and Northern Ireland). Following the meeting of the Council in 2014, the secretariat of the Authority had been mandated to liaise with the secretariats of OSPAR and NEAFC to prepare for further discussion on the agenda in 2015. It was considered that it would be appropriate to approach the International Commission for the Conservation of Atlantic Tunas to discuss the relevance of the collective arrangement.

17. The secretariat of the Authority provided the participants with further information on the global perspective of the Authority. It expressed the need to demonstrate the benefit of the collective arrangement over and above a memorandum of understanding, particularly in relation to a key issue on the agenda of the Authority and for which there was some pressure to progress, namely, the development of an environmental management plan for the Mid-Atlantic Ridge. The secretariat of the Authority would be preparing papers for the 2015 meeting of the Council before the end of May 2015.

Agenda items 3 and 4: Identification of issues for the attention of OSPAR and NEAFC

18. Using the framework provided by the text of the collective arrangement, in particular paragraph 6 (a) to (f), the participants considered the types of questions that could be relevant to bring to the attention of each of the two organizations.

(a) Use of scientific advice and the International Council for the Exploration of the Sea

19. The advice of the International Council for the Exploration of the Sea (ICES) was sought by both organizations and provided an option for an agreed common basis. NEAFC depended upon ICES as its scientific advisory body. An important point to keep in mind was that that information was used "as is" by NEAFC. OSPAR also used ICES information, but not necessarily as the only source of information, and it might use additional or alternative sources of scientific information.

20. Nevertheless the participants concurred that there could be an opportunity to better coordinate certain requests to ICES for analysis in order to save resources and obtain commonly requested advice for consideration by those organizations. Nevertheless, this would not preclude subsequent independent consideration or interpretation.

(b) Information on science and on proposed human uses (para. 6 (a) and (b) of the collective arrangement)

21. Participants determined that an ad hoc approach to formal notifications on updates to paragraphs 6 (a) and (b) between OSPAR and NEAFC would be appropriate. Relevant agreements and actions that arose should be notified. Participants in the following meeting under the collective arrangement could then

note any last minute updates and have an opportunity to review and discuss the updated information.

22. NEAFC would consider the sorts of issues to raise that OSPAR could provide information or take appropriate action on to assist NEAFC in its objectives. Such issues could be related to contamination, pollution, marine debris or litter and other human impacts on the marine environment under the remit of OSPAR.

23. OSPAR would in turn consider the sorts of issues to raise that NEAFC could provide information on or take appropriate action on to assist OSPAR in its objectives. Such issues could be related to vulnerable marine ecosystems, reacting to information on the impact of fisheries on the environment, or species and habitats of mutual concern.

(c) Cooperation on environmental impact assessments (para. 6 (c))

24. Where environmental impact assessments or strategic environmental impact assessments provided information on relevant areas, the types of activities undertaken and background information should be shared. However, at that stage, the exact details of what was likely to be done were not clear.

25. A proposed exploratory fishery at NEAFC might offer opportunities to learn what would be feasible under paragraph 6 (c).

26. From the OSPAR perspective, relevant information could come from the implementation of OSPAR recommendation 2010/5 on the assessment of environmental impacts on threatened and/or declining species.

27. The participants stated that it would be beneficial to prepare a joint request for any such information pertaining to any area covered under annex 1 from other relevant organizations, including the Authority and IMO, as input to future meetings under the collective arrangement in 2016.

(d) Consulting on respective objectives (para. 6 (d))

28. The participants considered that informal discussions and exchange were particularly useful to help to build mutual understanding. This could then help to feed back into each organization's thinking and development within other specific or related work areas potentially resulting in improved coordination and coherence.

29. The participants noted the need to better inform one another on their respective lists of species and habitats under particular protection measures. That exchange of information should be carried out as the measures arose on either side.

(e) Exchange of data (para. 6 (e))

30. As an example, the participants shared information on how data from the vessel monitoring system and log books provided important contributions to the work of the two organizations. However, it was considered that there might be reasons to leave arrangements as they currently were with regard to how vessel monitoring data were provided to ICES for analysis; namely, by national submission in response to a data call, or through NEAFC.

31. In future, as electronic reporting systems developed, there might be opportunities for better cooperation on information requirements on broader issues,

such as incidental catch or non-target species, or encounters with vulnerable marine ecosystems, or even information other than that which NEAFC currently requested its contracting parties to keep a record of, which could be of significant value to the work of OSPAR. There was, however, no further elaboration on that subject at that time, or on the routes to provide such data to analysts (e.g., ICES), such as through NEAFC or through the contracting parties directly.

(f) Superjacent areas (para. 6 (f))

32. This item was noted and there was no further discussion.

Agenda item 5: Future meetings and possible issues that could be considered

33. The participants agreed that it would be beneficial to continue to meet under the collective arrangement and to develop the format of a forum for dialogue between the participants of the collective arrangement, or "Collective arrangement dialogue meeting", while also recognizing the need for a process to allow for formal notification between the organizations.

34. It would be important to engage the contracting parties in future meetings under the collective arrangement.

35. Issues that could be considered within the discussion under the next collective arrangement included:

(a) Further explanation of the process regarding proposals for exploratory fishing in areas outside of exiting bottom fishing areas;

(b) Sharing information to better understand how the organizations developed the evidence to support policy discussions;

(c) Inviting IMO, the Authority and other relevant organizations to speak on their activities, management measures, impacts and approaches in the selected areas covered under annex 1.

36. The next meeting could consist of the following components:

(a) A special session or seminar to be organized by a host country on a theme to be proposed by the host country and agreed by the organizations (participation to be decided);

(b) A session between the organizations of the collective arrangement (and their contracting parties) that would include:

(i) Consideration of formal notifications and updates;

(ii) Comment on issues related to the areas covered under annex 1 (para. 2 of the collective arrangement);

(iii) A continued dialogue (guided by para. 6 of the collective arrangement);

(c) A case study presented by the host country on its experience with regard to cross-sectoral integration.

37. Both organizations agreed to provide firmer proposals on dates and hosting arrangements for the next meeting in 2016, with a proposal for Svalbard as the venue, before mid-2016.

Agenda item 6: Communication

38. The secretariats would continue to coordinate on issues related to communication both between the two organizations and in respect of others on matters relating to the implementation of the collective arrangement.

39. Formal notifications concerning the collective arrangement would be sent from the President or Chair on behalf of the respective organization.

Agenda item 7: Reporting

40. The present aide-mémoire served as a report of the meeting.

Agenda item 8: Any other business

41. There was no other business.